

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

CASE NO. 09-63135-6
CHAPTER 11

PATRICK HACKETT HARDWARE CO. ANSWERING AFFIDAVIT
DEBTOR.

David P. Antonucci Esq. being duly sworn and deposed states as follows:

1. I am the counsel for the debtor. As such, I am familiar with the facts and circumstances of this case.
2. I make this affidavit in opposition to the motion of the United States Trustee (hereinafter "UST") to convert or dismiss this case.
3. For the reasons set forth below, issues of fact and law dictate the motion should be denied.
4. The debtor is not administratively insolvent. The debtor possesses adequate resources to fund a plan of reorganization between its present cash assets inventory and equity in real property.
5. Prior to the return date of this motion the debtor envisions the filing of a second disclosure statement and plan of reorganization (collectively the "second plan").
6. The second plan marks a departure from the first plan of reorganization in numerous respects and cures the primary concerns of the UST and other creditors.
7. Specifically, the second plan does not rely on capital contributions from third or related parties.

8. Instead, the second plan will be traditional in nature and generally require the relocation of the debtor to a more viable location, the sale of its real property to reduce debt as well as raise working capital and the continued, profitable sale of its products.

9. The disclosure and plan will be feasible and should address the concerns of the UST/movant.

10. The second plan will be in the best interests of the creditors.

11. The court should allow for the approval of the second plan and its corresponding disclosure statement.

12. Liquidation will serve no legitimate purpose in this matter.

The conversion or dismissal of this case will result solely in the

13. For all these reasons, the motion should be denied. The movant has failed to demonstrate the debtor cannot reorganize. The denial of the first disclosure statement does not reflect upon the second plan at all.

WHEREFORE, the deponent requests the motion be denied along with such other and further relief as the court finds just and proper.



David P. Antonucci

Sworn to me this 29th
day of November 2010



Notary Public

JUDY McDONALD
NOTARY PUBLIC, STATE OF NEW YORK
REG. NO. 01MC6108449
QUALIFIED IN JEFFERSON COUNTY
COMMISSION EXPIRES 4/19/ 2012